

1  
2  
3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

5 \* \* \*

6 Tamika Lockett,

7 Plaintiff,

8 v.

9 Namaste Apartments, et al.,

10 Defendants.

Case No. 2:24-cv-01779-RFB-DJA

11 **Order**

12 Pro se Plaintiff Tamika Lockett filed an application to proceed *in forma pauperis*. (ECF  
13 No. 1). However, Plaintiff's application is missing certain information. The Court thus denies  
14 Plaintiff's application without prejudice.

15 **I. Discussion.**

16 Under 28 U.S.C. § 1915(a)(1), a plaintiff may bring a civil action "without prepayment of  
17 fees or security therefor" if the plaintiff submits a financial affidavit that demonstrates the  
18 plaintiff "is unable to pay such fees or give security therefor." The Ninth Circuit has recognized  
19 that "there is no formula set forth by statute, regulation, or case law to determine when someone  
20 is poor enough to earn [*in forma pauperis*] status." *Escobedo v. Applebees*, 787 F.3d 1226, 1235  
21 (9th Cir. 2015). An applicant need not be destitute to qualify for a waiver of costs and fees, but  
22 he must demonstrate that because of his poverty he cannot pay those costs and still provide  
23 himself with the necessities of life. *Adkins v. E.I DuPont de Nemours & Co.*, 335 U.S. 331, 339  
(1948).

24 The applicant's affidavit must state the facts regarding the individual's poverty "with  
25 some particularity, definiteness and certainty." *United States v. McQuade*, 647 F.2d 938, 940  
26 (9th Cir. 1981) (citation omitted). If an individual is unable or unwilling to verify his or her  
27 poverty, district courts have the discretion to make a factual inquiry into a plaintiff's financial  
28 status and to deny a request to proceed *in forma pauperis*. See, e.g., *Marin v. Hahn*, 271

1 Fed.Appx. 578 (9th Cir. 2008) (finding that the district court did not abuse its discretion by  
2 denying the plaintiff's request to proceed *in forma pauperis* because he "failed to verify his  
3 poverty adequately"). "Such affidavit must include a complete statement of the plaintiff's  
4 personal assets." *Harper v. San Diego City Admin. Bldg.*, No. 16-cv-00768 AJB (BLM), 2016  
5 U.S. Dist. LEXIS 192145, at \*1 (S.D. Cal. June 9, 2016). Misrepresentation of assets is sufficient  
6 grounds for denying an *in forma pauperis* application. *Cf. Kennedy v. Huibregtse*, 831 F.3d 441,  
7 443-44 (7th Cir. 2016) (affirming dismissal with prejudice after litigant misrepresented assets on  
8 *in forma pauperis* application).

9 On her application, Plaintiff responds to question 2 by stating her gross and take-home  
10 wages, but Plaintiff does not provide her employer's name and address. She also does not  
11 identify if she makes income from any other source other than "[b]usiness, profession, or other  
12 self-employment" in response to question 3 and does not describe "the amount that you received  
13 and what you expect to receive in the future." Plaintiff has left questions 5 and 7 blank without  
14 any explanation about whether or not they apply to her. She also lists the Department of  
15 Education as a financial obligation in response to question 8, but does not "describe the amounts  
16 owed." The Court finds that Plaintiff has omitted information from the application. As a result,  
17 the Court cannot determine whether Plaintiff qualifies for *in forma pauperis* status.

18 The Court will give Plaintiff one opportunity to file a complete *in forma pauperis*  
19 application. The Court further orders that Plaintiff may not respond with a zero or "not  
20 applicable" in response to any question without providing an explanation for each of the  
21 questions. Plaintiff also may not leave any questions blank. Plaintiff must describe each source  
22 of money that she receives, state the amount she received, and what she expects to receive in the  
23 future.

24 The Court denies Plaintiff's *in forma pauperis* application without prejudice. The Court  
25 gives Plaintiff 30 days to file an updated application. Plaintiff must fully answer all applicable  
26 questions and check all applicable boxes. Plaintiff may alternatively pay the filing fee in full.  
27 Since the Court denies Plaintiff's application, it does not screen the complaint at this time.  
28

1           Additionally, Plaintiff's mail has been returned as undeliverable. (ECF No. 4). Under  
2 Nevada Local Rule IA 3-1,

3                   An attorney or pro se party must immediately file with the court  
4                   written notification of any change of mailing address, email address,  
5                   telephone number, or facsimile number. The notification must  
6                   include proof of service on each opposing party or the party's  
7                   attorney. Failure to comply with this rule may result in the dismissal  
8                   of the action, entry of default judgment, or other sanctions as  
9                   deemed appropriate by the court.

10           The Court will thus require Plaintiff to update her address.

11           **IT IS THEREFORE ORDERED** that Plaintiff's application to proceed *in forma*  
12 *pauperis* (ECF No. 1) is **denied without prejudice**.

13           **IT IS FURTHER ORDERED** that Plaintiff has until **December 4, 2024**, to file an  
14 updated application to proceed *in forma pauperis* as specified in this order or pay the filing fee.  
15 **Failure to timely comply with this order may result in a recommendation to the district**  
16 **judge that this case be dismissed.**

17           **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to send Plaintiff  
18 a copy of this order and of the Short Form application to proceed *in forma pauperis* and its  
19 instructions.<sup>1</sup>

20           **IT IS FURTHER ORDERED** that Plaintiff has until **December 4, 2024**, to update her  
21 address. **Failure to timely comply with this order may result in a recommendation to the**  
22 **district judge that this case be dismissed.**

23           DATED: November 4, 2024

24   
25 DANIEL J. ALBREGTS  
26 UNITED STATES MAGISTRATE JUDGE

27 \_\_\_\_\_  
28 <sup>1</sup> This form and its instructions can also be found at <https://www.nvd.uscourts.gov/court-information/forms/> under Code AO 240.